HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22408 OF 2006

Between:

Smt. A.Parvathi
. . .Petitioner

AND

The A.P. State Consumer Disputes Redressal Commission and others
. .
.Respondents

:: ORDER ::

Counsel for the Petitioner : Shri Posani Venkateshwarlu
for Shri M.Haribabu

Counsel for the Respondent No.3 : Shri Rama Rao Ghanta

31st January, 2007

–

PER G.S.SINGHVI, CJ

In this petition, the petitioner has prayed for quashing the proceedings initiated by respondent No.3 – D. Venkateswarlu under Section 27 of the Consumer Protection Act, 1986 (for short, 'the Act').

Respondent No.3 filed complaint under Section 12 of the Act by alleging that he used to purchase the shares of different companies and selling them through Gayatri Capital Limited (Branch Office, Nalgonda) (respondent No.4); that he invested Rs.3,50,723.85 ps., but did not receive share certificates or guarantee amount; that when he asked non-petitioners No.4 to 8 (including the present petitioner) to deliver share certificates or pay the amount of its value, they did not respond.

The complaint filed by respondent No.3 was registered as C.D.No.7 of 1999. By an order dated 9-12-2002, District Consumer Forum, Nalgonda (hereinafter referred to as 'the District Forum') allowed the complaint and directed the petitioner and respondent Nos.4 to 8 to pay Rs.4,16,311.26 ps. With interest @ 12% per annum from 21-12-1999 and costs of Rs.2,000/-. First Appeal Nos.9 and 23 of 2003 preferred by respondent Nos.7 and 8 and 4 and 5 respectively were allowed by the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short, 'the State

Commission') vide its order dated 7-3-2006. However, a direction was given to respondent No.3 to proceed against respondent No.6 and the petitioner.

Feeling aggrieved by the orders of the State Commission, the petitioner and respondent No.6 filed Revision Petition Nos.1553-54 of 2006 before National Consumer Disputes Redressal Commission, New Delhi (for short, 'the National Commission'). Respondent No.3 also filed Revision Petition Nos.1679-1680 of 2006. All the revision petitions are pending before the National Commission.

During the pendency of the revision petitions before the National Commission, respondent No.3 moved the District Forum for taking action on the application filed by him under Section 27 of the Act, which was registered as P.P.No.6 of 2003. On notice, the petitioner filed counter-affidavit and prayed that adjudication of P.P.No.6 of 2003 may be deferred till the decision of the revision petition. The District Forum did not accept the petitioner's prayer and issued warrants on 18-8-2006.

When the writ petition was listed for admission hearing on 17-11-2006, the Court passed the following order:

"Shri Posani Venkateshwarlu for the petitioner.

In this petition, the petitioner has prayed for quashing the proceedings initiated by District Consumer Forum, Nalgonda (for short, 'the District Forum') under Section 27 of the Consumer Protection Act, 1986 (for short, 'the Act').

On 8-11-2006, the Court, after taking

cognizance of the statement made by learned counsel for the petitioner that his client is ready and willing to deposit the entire amount payable in terms of order dated 9-12-2002 passed by the District Forum in C.D.No.7 of 1999, adjourned the case to 13-11-2006. Thereafter, the petitioner filed affidavit dated 9-11-2006.

Learned counsel invited our attention to paragraph 3 of the affidavit of the petitioner – Smt. A. Parvathi and submitted that in view of the undertaking given by her, the proceedings initiated by the District Forum under Section 27 of the Act may be stayed. Learned counsel also submitted that in line 3 of paragraph 3 of the affidavit of the petitioner, the date has been inadvertently mentioned as 13-01-2006 instead of 13-11-2006.

We have gone through the affidavit. In paragraph 3 of her affidavit, the petitioner has averred as under:

"That without prejudice to the revision petition filed by me which is pending before the Hon'ble National Commission, I undertake that I would deposit a sum of Rs.4,16,311/- within one week from 13.1.2006 and would deposit the interest of Rs.3,43,000/- accrued as on today in two equal monthly installments i.e. Rs.1,71,500/- on or before 20.12.2006 and Rs.1,71,500/- on or before 20.1.2007."

In view the undertaking given by the petitioner coupled with the clarification given by the learned counsel about the date, we deem it proper to entertain the writ petition.

Notice to the respondents for January 29, 2007 to show cause as to why the writ petition may not be admitted and finally disposed of.

Personal service is permitted."

"Notice to the respondents for January 29, 2007.

Personal service is permitted.

In the meantime, proceedings initiated by the

District Forum under Section 27 of the Act and execution of arrest warrant issued against the petitioner shall remain stayed. This would be subject to the condition that the petitioner deposits a sum of Rs.4,16,311/- on or before 20-11-2006, a sum of Rs.1,71,500/- on or before 20-12-2006 and the balance amount i.e., Rs.1,71,500/- on or before 20-01-2007. If the petitioner fails to deposit either of the instalments, the stay order passed today shall stand automatically vacated and the respondents shall be free to seek execution of the warrant of arrest issued in furtherance of order dated
18-08-2006 passed by the District Forum."

Learned counsel for the petitioner states that his client has already deposited the entire amount in terms of order dated
9-12-2002 passed by the District Forum in C.D.No.7 of 1999. This has not been disputed by learned counsel for respondent No.3.

In view of the above, there is no justification for continuance of the proceedings instituted by respondent No.3 under Section 27 of the Act or execution of warrant of arrest issued by the District Forum on 18-8-2006.

Hence, the writ petition is allowed. The proceedings of P.P.No.6 of 2003 pending before the District Forum are quashed with the observation that deposit of amount by the petitioner in terms of order dated 17-11-2006 passed by this Court will remain subject to the final adjudication of revision petition filed by her.

As a sequel to disposal of the main writ petition, WPMP No.28460 of 2006 filed by the petitioner for

suspending the proceedings in P.P.No.6 of 2003 pending before District Consumer Disputes Redressal Forum, Nalgonda and arrest warrant issued on 18-8-2006 is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 31.01.2007

kvni